

Appl. No. 10/633,742
Atty. Docket No. 9045M
Amtd. Dated 06 March 2006
Reply to Office Action of 9 February 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1 - 17 are pending in the present application. Herein, Applicants present no amendments to the claims, add no new claims, and cancel no claims. No additional claims fee is believed to be due.

Response to Restriction Requirement

The Office Action has required election of a single invention under 35 U.S.C. 121, for prosecution on the merits. Pursuant to this requirement, Applicants hereby elect to prosecute the invention designated in the Office Action as Invention I. Claims 1 - 14 are drawn to this invention. This election is made with traverse.

The Office has also required a further election under 35 U.S.C. 121, of one species each from three groups of disclosed species, for prosecution on the merits. Pursuant to this requirement, Applicants hereby elect to prosecute the species of SEQ ID NOs: 2, 6, and 8, from groups (a), (b), and (c), respectively. Claims 3-5, 10-12 specifically recite these sequences. This election is made with traverse.

Traversal of Restriction Requirement

The traversal of the indicated restriction requirement is made as it is considered by Applicants to be improperly made.

MPEP §803 sets forth the criteria for any restriction requirement, providing that there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (1) The inventions must be independent or distinct as claimed; and
- (2) There must be a serious burden on the examiner if restriction is not required.

The Office Action alleges that these inventions are distinct. Applicants respectfully submit that the claims of Inventions I-IV are closely interrelated and in order

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to preserve unity of invention, all the claims should be prosecuted in the same application. All of the claims relate to use of HPTPbeta to identify compounds that regulate angiogenesis, and method of treatment of angiogenesis modulated disorders. Maintaining the Office's restriction requirement will result in a piece-meal prosecution, contrary to the policy set forth in the MPEP and espoused by the courts. Therefore, Applicants request that the restriction requirement be withdrawn.

Conclusion

This response represents an earnest effort to place the application in proper form. In view of the foregoing, consideration of this application and examination of the claims are respectfully requested.

Respectfully Submitted,

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Customer No. 27752
9045M_RestReq_13March2006.doc

Page 3 of 3